

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**THOMAS M. KELLEY,**

**Plaintiff,**

**V.**

**TOWN OF PLYMOUTH, et al.,**

## Defendants.

**C.A. NO. 05-10596-NMG**

**MOTION TO ENLARGE TIME  
TO OBJECT TO SUBPOENAS & STAY DEPOSITIONS**

Pursuant to Fed.R.Civ.P. 6(b), the Office of the Inspector General (“IG”) respectfully moves to enlarge the time to respond to two subpoenas commanding Edward Quinn, a former Deputy Inspector General for Investigations (“Quinn”), and Daniel O’Neil, an Assistant Deputy Inspector General (“O’Neil”), to appear and testify on September 6, 2006. The IG asks that this Court allow it until September 29, 2006, to move to quash or modify this subpoena pursuant to Fed.R.Civ.P. 45(c)(3)(A), and stay the September 6, 2006, depositions, as the parties have not yet been able to consult regarding an agreement for responding to these subpoenas. Joseph R. Gallitano, counsel to the plaintiff Thomas M. Kelly, who served these subpoenas, has provided his assent to this motion.<sup>1</sup> In support of this motion, the IG states the following:

1. On July 28, 2006, the IG received from Attorney Gallitano the following:

<sup>1</sup>Attorney Gallitano has advised that he is seeking to extend the current discovery deadline of September 30, 2006. His assent to this motion is contingent upon this extension being granted by the Court so that it may rule upon the IG's motion to quash and if necessary, to allow the depositions of Quinn and O'Neil.

- a. a subpoena directed to the Keeper of Records, which commanded the Keeper of the Records to appear and testify on August 16, 2006, at 11:00 a.m., and to produce and permit inspection and copying of certain documents referenced in the attached Schedule A ("Document Subpoena"); and
  - b. a subpoena directed to O'Neil commanding him to appear and testify on September 6, 2006, at 1:30 ("O'Neil Subpoena").
2. On August 9, 2006, the IG received another subpoena originally served upon Quinn commanding him to appear and testify on September 6, 2006, at 10:30 ("Quinn Subpoena").
3. On August 14, 2006, the IG electronically filed a motion to enlarge the time to object to these subpoenas, which was granted by the Court on August 28, 2006.
4. On August 29, 2006, the IG's office served on Attorney Gallitano, its objections regarding the Documents Subpoena in accordance with Fed.R.Civ.P. 45(c)(2)(B) and Local Rule 34.1(c). With the assent of Attorney Gallitano, the IG's Office will prepare and produce a privilege log by September 5, 2006.
5. The IG seeks to reach an agreement regarding its response to the Quinn and O'Neil Subpoenas and in the event that an agreement cannot be reached, to preserve its rights to quash or modify these subpoenas pursuant to Fed.R.Civ.P. 45(c)(3)(A).
6. While AAG Baily has been in discussions with Attorney Gallitano, she has not yet been able to reach counsel for the Town of Plymouth.
7. AAG Baily needs additional time to consult with counsel to the parties as required by Local Rule 37.1.
8. On August 29, 2006, AAG Baily telephoned and faxed Attorney Gallitano, who issued the above-referenced subpoenas, seeking his assent to this motion. On August 29, 2006, Attorney Gallitano provided his assent to this motion.
9. This is the second extension requested by the IG.

For the foregoing reasons and for those articulated in the attached affidavit, the IG respectfully requests that the Court allow this motion to extend time to September 29, 2006, to respond to the Quinn and O'Neil Subpoenas and to stay the September 6, 2006, depositions, as

set forth above.

Respectfully submitted,

OFFICE OF THE  
INSPECTOR GENERAL,

By its counsel,

THOMAS F. REILLY  
ATTORNEY GENERAL

/s/ Christine A. Baily  
Christine A. Baily, BBO #643759  
Assistant Attorney General  
Government Bureau  
One Ashburton Place, Room 2019  
Boston, Massachusetts 02108  
(617) 727-2200, extension 2617

**Date: August 29, 2006**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**THOMAS M. KELLEY,**

**Plaintiff,**

**V.**

**TOWN OF PLYMOUTH, et al.,**

## Defendants.

**C.A. NO. 05-10596-NMG**

**AFFIDAVIT OF CHRISTINE BAILY**

The undersigned hereby deposes and says:

1. I am an Assistant Attorney General and represent the Office of the Inspector General (“IG”) in the above-captioned matter.
2. On July 28, 2006, the IG received the following:
  - a. a subpoena directed to the Keeper of Records, which commanded the Keeper of the Records to appear and testify on August 16, 2006, at 11:00 a.m., and to produce and permit inspection and copying of certain documents referenced in the attached Schedule A (“Document Subpoena”); and
  - b. a subpoena directed to Daniel O’Neil, an Assistant Deputy Inspector General (“O’Neil”), commanding him to appear and testify on September 6, 2006, at 1:30 (“O’Neil Subpoena”).
3. On August 9, 2006, the IG received another subpoena originally served upon Edward Quinn, a former Deputy Inspector General for Investigations (“Quinn”), commanding him to appear and testify on September 6, 2006, at 10:30 (“Quinn Subpoena”).
4. On August 14, 2006, the IG electronically filed a motion to enlarge the time to object to these subpoenas, which was granted by the Court on August 28, 2006.
5. On August 29, 2006, the IG served on Joseph R. Gallitano, counsel to the plaintiff Thomas Kelly, its objections regarding the Documents Subpoena in accordance with Fed.R.Civ.P. 45(c)(2)(B) and Local Rule 34.1(c). With the assent of

Attorney Gallitano, the IG's Office will prepare and produce a privilege log by September 5, 2006.

6. The IG seeks to reach an agreement regarding its response to the Quinn and O'Neil Subpoenas and in the event that an agreement cannot be reached, to preserve its rights to quash or modify these subpoenas pursuant to Fed.R.Civ.P. 45(c)(3)(A).
7. While I have been in discussions with Attorney Gallitano, I have not yet been able to reach counsel for the Town of Plymouth. I have left messages for Jeremy I. Silverfine, however his office has conveyed that he is away on vacation, and his colleague, Leonard H. Kesten, who has been unavailable to receive or return my calls.
8. I need additional time to consult with counsel to the parties as required by Local Rule 37.1.
9. On August 29, 2006, I telephoned and faxed Attorney Gallitano, who issued the subpoenas, seeking his assent to this motion. On August 29, 2006, Attorney Gallitano provided his assent to this motion.
10. This is the second extension requested by the IG.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS THE 29th DAY OF AUGUST, 2006.

/s/ Christine A. Baily  
Christine Baily, BBO #643759  
(617) 727-2200, extension 2617